

From: "Jeffrey H. Schwartz"  
To: Nancy Rumrill/R9/USEPA/US|||EPA  
Date: 06/22/2009 03:27 PM  
Subject: Request for Public Hearing: Lahaina Injection Well Permit

Dear Ms. Rumrill,

I write today as a resident of Maui to request EPA to hold a new public hearing on the Lahaina Wastewater Injection Well permit, and also request the opportunity to testify in that hearing. I am a member of the DIRE Coalition and support the request for a public hearing submitted by Hannah Bernard, Irene Bowie, and Wayne Cochran on behalf of the individuals and organizations comprising that Coalition.

If given the opportunity to testify I will provide additional information pertinent to several of the issues identified in that letter. Among other points, I will submit a documented presentation on the Agency's authority to under the Safe Drinking Water Act, the Clean Water Act, and the Pollution Prevention Act to limit the length of the permit and to condition its granting on the conduct of certain studies and the phasing out of the wells as soon as practical.

I am perhaps in a unique position to testify on these points as I was formerly Environmental Counsel to the House Energy and Commerce Committee in 1974 when the original Safe Drinking Water Act was passed containing the Agency's first authority to regulate underground injection wells. I therefore have a unique understanding of the concerns and intention of Congress when it enacted this legislation. (In addition, I formerly served as a member of the Office of General Counsel in Headquarters at EPA.)

While time since the notice has not permitted me to do a complete review of the Agency's broad authority when issuing permits under all pertinent statutes, I believe the Agency would be mistaken to say that it lacks authority to limit the time frame for the permit to the time necessary to find alternative and safe and practical means of reusing the water in keeping with the policy of the Pollution Prevention Act. I would like the opportunity to further explain and support that position in a public hearing. Likewise, I think that under the factual circumstances revealed at the earlier hearing about the injected wastewaters entering the ocean, the Agency has the authority to require the County to obtain an NPDES permit for the injection wells and, as part of that permit, to require that the injectate not harm or endanger the ocean, fish, reefs, and beneficial uses of the ocean. Again, this is something on which I would like to testify and supply supporting citations.

Please count me as one requesting a public hearing on the EPA's proposed permit to allow 10 more years of injection of wastewaters from the Lahaina POTW.

Sincerely,  
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